

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MARK MAJOR and MICHAEL MAJOR,

Plaintiffs,

v.

MARK D. HODGSON, MAXEY LAW
OFFICE, ANDREW C. BOHRNSEN,
STOCKER SMITH LUCIANI & STAUB
PLLC,

Defendants.

NO. CV-09-242-EFS

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS AND MOTION
FOR SANCTIONS**

This case is the latest in a series of cases these Plaintiffs have brought against these Defendants. Plaintiffs allege Defendants conspired with judges to deprive them of their civil rights through the judicial system. (Ct. Rec. [1](#).) Plaintiffs sued Defendants in state court twice: once before the Honorable David Frazier of Spokane County Superior Court, and after this case was dismissed, for a second time in front of the Honorable Tari Eitzen of Spokane County Superior Court, who also dismissed Plaintiffs' case. *Id.* at 4-8.

Subsequently, Plaintiffs sued Defendants twice in federal court: 08-CV-0269-RHW; and 09-CV-140-FVS. In the first case, the Honorable Robert Whaley held that the complaint failed to state a claim under 42 U.S.C. § 1983 and that the court lacked subject-matter jurisdiction over

1 Plaintiffs' claims. (08-CV-0269-RHW, Ct. Rec. 76). In the second case,
2 the Honorable Fred Van Sickle made similar findings and determined that
3 Plaintiffs' claims were frivolous and filed in order to harass
4 Defendants. Consequently, Judge Van Sickle awarded Defendants their
5 attorneys' fees under Federal Rule of Civil Procedure 11. (09-CV-140-FVS,
6 Ct. Rec. 44 at 11.) Judge Van Sickle ruled that Plaintiffs are vexatious
7 litigants, and prohibited them from filing any further actions against
8 these Defendants in this district. *Id.*

9 A district court has discretion to dismiss a complaint for failure
10 to comply with a court's order. *In re Fillbach*, 223 F.3d 1089, 1090 (9th
11 Cir. 2000). Plaintiffs' claims have previously been determined as
12 frivolous multiple times and, as a result, Plaintiffs were held to be
13 vexatious litigants. As such, Plaintiffs were barred from filing further
14 complaints against Defendants in this district. Plaintiffs defied Judge
15 Van Sickle's order by bringing this case. Accordingly, the Court finds
16 good cause to grant Defendants' Motion to Dismiss.

17 Because Plaintiffs continue to file claims against Defendants in bad
18 faith, Defendants are forced to continue responding. This is now the
19 fifth identical frivolous case in which Defendants had to file responses.
20 The Court therefore holds that Defendants are entitled to their costs and
21 reasonable attorneys' fees incurred in defending this case. Imposition
22 of sanctions in state and federal court has not deterred Plaintiffs from
23 bringing frivolous claims in the past, however. And Plaintiffs not only
24 filed a frivolous complaint, but flouted a direct court order not to file
25 any more cases against these Defendants. Accordingly, the Court finds
26 that additional contempt sanctions are warranted beyond mere attorneys'
fees.

1 For the reasons given above, **IT IS HEREBY ORDERED:**

2 1. Defendants' Joint Motion to Dismiss (**Ct. Rec. 7**) is **GRANTED**.

3 2. Plaintiffs' Motion for Partial Summary Judgment (**Ct. Rec. 10**)
4 is **DENIED AS MOOT**.

5 3. Defendants' Joint Motion for Sanctions (**Ct. Rec. 16**) is
6 **GRANTED**. Defendants are entitled to their costs and reasonable
7 attorneys' fees incurred for the defense of this action. Defendants
8 shall file appropriate documentation concerning costs and attorneys' fees
9 by **November 11, 2009**.

10 4. As a sanction for violating Judge Van Sickle's order not to
11 file additional claims against these Defendants, Plaintiffs shall pay a
12 total of \$5000.00 to Defendants, in the form of four (4) checks of
13 \$1875.00 each, in addition to Defendants' costs and attorneys' fees.
14 These checks shall be mailed to Defendants **no later than November 23,**
15 **2009**. Also by this date, Plaintiffs shall file an electronic notice with
16 the Court indicating their compliance with this Order.

17 5. The Court will delay entering judgment in Defendants' favor
18 until after sanctions have been paid.

19 **IT IS SO ORDERED.** The District Court Executive is directed to enter
20 this Order and provide a copy to counsel and Plaintiffs.

21 **DATED** this 21st day of October 2009.

22
23 s/Edward F. Shea
24 EDWARD F. SHEA
United States District Judge

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